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9 Attorneys for Non-Party Deponent Steve Jobs

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12
13 IN THE MATTER OF A DEPOSITION
SUBPOENA SERVED IN:

14 F.B.T. PRODUCTIONS, LLC AND EM2M,
15 LLC,

16 Plaintiffs,

17 v.

18 AFTERMATH RECORDS, INTERSCOPE
RECORDS, UMG RECORDING, INC.,
19 AND ARY, INC.,

20 Defendants.
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FILED

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RICHARD W. WIENING
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RMW

CV 08-80040 MISC.

[Related to Case No. CV07-3314 PSG (M) (C.D. Cal.)] PVT

**DECLARATION OF KEVIN SAUL IN
SUPPORT OF MOTION FOR PROTECTIVE
ORDER**

[Notice of Motion for Protective Order;
Memorandum of Points and Authorities;
Declaration of Colin B. Vandell; and Exhibits
filed concurrently herewith]

Hearing: [To Be Set By Court]

Date: TBD

Time: TBD

Place: Courtroom TBD
280 South 1st Street
San Jose, CA 95113

FAXED

DECLARATION OF KEVIN SAUL

(1) I am a Senior Director in the Legal Department for Apple Inc. ("Apple"). Among other duties, I have responsibility for providing legal support for the iTunes business. I am licensed to practice law in the State of California. I have personal knowledge of the matters set forth herein, and would competently testify thereto under oath if called as a witness. I submit this Declaration in support of the motion for protective order to prevent a deposition of Steve Jobs, Apple's chief executive officer, by Plaintiffs F.B.T. Production, LLC and Em2M, LLC ("Plaintiffs").

(2) Mr. Jobs and Apple are not parties to the underlying proceeding, *F.B.T. Productions, LLC v. Aftermath Records*, Case No. CV07-3314 PSG (MANx) (C.D. Cal.) (the "FBT Action").

(3) Mr. Jobs and Apple are not parties to any of the agreements (the "UMG Agreements") between Plaintiffs and Defendants Aftermath Records, Interscope Records, UMG Recordings, Inc., and Ary, Inc. (the "UMG Defendants") regarding master recordings of performances by Marshall Mathers (the "Eminem Masters").

(4) Neither Mr. Jobs nor Apple had any role in negotiating, drafting, or executing the UMG Agreements.

(5) Apple has no agreements with Plaintiffs regarding the Eminem Masters for the delivery of music purchased on iTunes. Content owned by UMG is sold through iTunes pursuant to a series of confidential master distribution agreements with Apple entitled "Digital Music Download Sales Agreements" ("Download Agreements"). The Download Agreements relate generally to recordings owned by UMG and do not specify Eminem or other individual artists or specific content.

(6) UMG has provided more than 400,000 songs for sale on iTunes in the United States under its confidential Download Agreements with Apple.

(7) A pioneer of the personal computer revolution and one of the world's best known companies, Apple was founded by Mr. Jobs and Steve Wozniak in Mr. Jobs's garage in 1976.

1 (8) After leaving the company in 1986, Mr. Jobs returned in 1997 to serve on
2 Apple's Board of Directors and later as CEO.

3 (9) As CEO of Apple, Mr. Jobs currently has responsibilities for a
4 multinational company with more than 20,000 permanent and temporary employees worldwide
5 and fiscal year 2007 revenues of \$24 billion.

6 (10) Apple markets and develops a wide variety of groundbreaking products
7 and services, including personal computers; the Mac OS X operating system; mobile
8 communication devices (for example, the revolutionary iPhone); portable digital music players;
9 online music services; and a variety of related software, peripherals, and networking solutions.

10 (11) Mr. Jobs is responsible not only for Apple's overall strategy and
11 operations; he also plays a key role in the design and development of Apple's products.

12 (12) In 1986, Mr. Jobs founded and became CEO of Pixar Animation Studios,
13 a computer animation company known for its award-winning movies such as *Toy Story* and
14 *Finding Nemo*.

15 (13) In 2006, The Walt Disney Company acquired Pixar.

16 (14) As a result of The Walt Disney Company's acquisition of Pixar, Mr. Jobs
17 serves as a director of The Walt Disney Company.

18 (15) Mr. Jobs is extremely busy meeting the diverse duties and requirements of
19 his roles as the chief executive officer and director of Apple and a director of The Walt Disney
20 Company. Mr. Jobs's time is an important asset, and he carefully manages his schedule to
21 ensure that he can devote the necessary energy and attention to the myriad challenges facing both
22 companies.

23 (16) The *Thoughts on Music* essay, authored by Mr. Jobs, is a discussion of Mr.
24 Jobs's views on the current status and prospects of "digital rights management" systems used by
25 Apple and other companies to prevent unauthorized copying of music. (Attached to Vandell
26 Decl. as Exhibit E ("Ex. E") is a true and correct copy of the essay *Thoughts on Music*.)

27 (17) *Thoughts on Music* is intended for a popular audience. The essay does not
28 constitute a legal opinion or analysis of contractual rights and obligations. It does not discuss the

1 FBT Action, the UMG Agreements or any other arrangements between artists and record
2 companies. Nor does it analyze the structure of agreements between record labels and digital
3 service providers. (Ex. E.)

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct.

6 Executed this 24th day of March, 2008 in Cupertino, California.

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8 Kevin Saul
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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Latham & Watkins LLP, 633 West Fifth Street, Suite 4000, Los Angeles, California 90071. On March 24, 2008, I caused the foregoing to be served:

DECLARATION OF KEVIN SAUL IN SUPPORT OF MOTION FOR PROTECTIVE ORDER

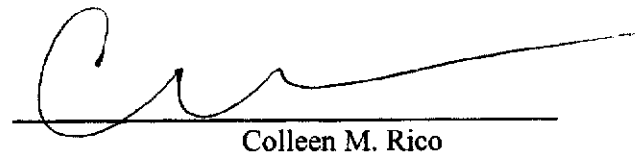
I caused the above document(s) to be deposited for facsimile transmission in accordance with the office practice of Latham & Watkins LLP for collecting and processing facsimiles. I am familiar with the office practice of Latham & Watkins LLP for collecting, processing, and transmitting facsimiles, which practice is that when a facsimile is deposited with the Latham & Watkins LLP personnel responsible for facsimiles, such facsimile is transmitted that same day in the ordinary course of business. The facsimile of the above document(s) was transmitted to the following parties: See the attached Facsimile List.

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I cause a pdf version of this document to be delivered via electronic mail to the attached Service List.

I declare under penalty of perjury that the above is true and correct. Executed on March 24, 2008 at Los Angeles, California.



Colleen M. Rico

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